



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,732	02/09/2001	Peter Kotay Nagy	32340WC004	8475

7590 12/30/2002

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Washington, DC 20036

EXAMINER

BERNHARDT, EMILY B

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/701,732

Applicant(s)

NAGY et al.

Examiner

Emily Bernhardt

Art Unit

1624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12/9/02 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s):  
See attached response.

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
reasons set forth in the attached response.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1, 9, 10, and 17-19

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☐ Other: \_\_\_\_\_

*E. Bernhardt*  
EMILY BERNHARDT  
PRIMARY EXAMINER  
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The after final amendment filed 12/9/02 will be entered since it overcomes the 112 rejection of the final rejection and presents an abstract as requested by the examiner. However, the 103 rejection remains. Unlike Baird newly cited by applicant the reactants/products involved in the same reaction taught by the prior art is no more or less complex in structure than the compounds employed herein and **not** left for applicants to pick and choose out of a generic disclosure. Hydrogen as a choice is clearly contemplated as a preferred product to be made as evident by the many species produced in Table 3 of Zara employing routes A1, A4 when R1=H. Burckel cited in Baird with approval and never overruled is believed more on point. The two references provided in the after final response do not teach away from Zara's teaching. They merely exemplify that the NH of pyridazinone rings can be alkylated. Reactions in general to the detriment of synthetic organic chemists are known to produce by-products. Clearly Zara is not excluding the possibility of side products in making the variety of pyridazinones taught by the alternate processes as evident by mixtures of isomers obtained when employing other routes and applicants have not shown that by employing Zara's one process not exemplified for R1=H, they have discovered an unexpected result. Applicants do not comment on

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the examiner's remark made in last office action regarding lack of product analysis for preparation obtained by instant process.

**Any inquiry concerning this communication should be directed to Emily Bernhardt at telephone number (703) 308-4714.**

**A facsimile center has been established for Group 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4556 or (703) 305-3592.**

*F Bernhardt*

**EMILY BERNHARDT**

**PRIMARY EXAMINER**

**GROUP 1600**